

Senate Bill No. 1102

CHAPTER 620

An act to amend Section 15619 of the Government Code, and to amend Sections 6203, 7102, 8255, 8651.7, 9255, 30179, 30366, 30455, 32405, 40116, 43455, 45655, 46506, 46751, 50142.1, 50161, 55225, 60120, 60121, 60361, 60524, 60608, and 60609 of, to add Sections 7204.5, 9255.1, 50162, and 60105 to, and to repeal Sections 60104 and 60709 of, the Revenue and Taxation Code, and to amend Sections 2104, 2105, and 2107 of the Streets and Highways Code, relating to taxation.

[Approved by Governor October 2, 1997. Filed
with Secretary of State October 3, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1102, Committee on Revenue and Taxation. Taxation.

The Motor Vehicle Fuel License Tax Law, the Use Fuel Tax Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, and the Diesel Fuel Tax Law, among other things, authorize the State Board of Equalization to disclose specified tax information, as provided.

This bill would authorize the board to furnish specified motor fuel tax information to other specified governmental agencies that are investigating violations of, and enforcing, motor fuel laws, as provided.

The Sales and Use Tax Law provides that a retailer engaged in business in this state includes, among others, specified retailers who solicit orders, as provided.

This bill would delete those provisions.

Under the existing Bradley-Burns Uniform Local Sales and Use Tax Law and the Transactions and Use Tax Law, the State Board of Equalization deducts from its periodic transmittals of sales and use tax revenues and transactions and use tax revenues to counties, cities, redevelopment agencies, and districts, as defined, their respective shares of refunds of those taxes which are due to taxpayers.

This bill would, with certain exceptions, require the board, upon the request of a city or county, as specified, to remit to the city or county that portion of the refund deducted from tax revenue transmittals by the board which exceed \$50,000 in a calendar quarter and to thereafter deduct a pro rata share of that portion from future transmittals of tax revenues, as specified, until the portion is fully deducted.

The Diesel Fuel Tax Law provides that any person that fails to provide or post the required notice with respect to any dyed diesel fuel is presumed to know for purposes of a specified penalty that the

diesel fuel will be used for a taxable use. That law also provides that any person who willfully evades or attempts to evade or defeat the payment of taxes imposed by that law is subject to a specified penalty in specified circumstances.

This bill would, instead, apply specified penalties when, among other things, a person knows, or has reason to know, that they are using dyed diesel fuel for a taxable use.

The Diesel Fuel Tax Law requires every person operating a qualified motor vehicle in interstate commerce to apply for a license and post security, as specified.

This bill would provide that those requirements apply to every person operating a qualified motor vehicle within and without this state or the United States, and would make it unlawful for any person to be an interstate user without first securing a license. It would provide additional monetary penalties and prescribe specified administrative procedures in connection therewith.

This bill would also make various technical, nonsubstantive changes relating to the allocation of revenues from fuel taxes to counties and cities.

Existing law governing the State Board of Equalization generally prohibits members, ex-members, and agents of the board and persons obtaining information from any of the foregoing from divulging certain information concerning the business affairs of the companies reporting to the board. The Cigarette and Tobacco Products Tax Law includes a similar prohibition.

This bill would allow the board, under these provisions, to give information to successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

Existing law requires that an amount equal to all revenues, less refunds, derived from sales and use tax revenue collected on gasoline, diesel, and alternative fuels, be transferred from the Retail Sales Tax Fund to the Transportation Planning and Development Account. The Clean Air and Transportation Improvement Act of 1990, an initiative measure that added this provision, requires that amendments to the act must be consistent with and further the act's purposes and, if those requirements are met, also requires a $\frac{2}{3}$ vote of both houses of the Legislature for passage.

This bill would provide that sales and use tax revenues on diesel fuel covered by the Diesel Fuel Tax Law are subject to transfer to the Transportation Planning and Development Account. This bill would declare that it is consistent with and furthers the purposes of the act, and would require a $\frac{2}{3}$ vote for passage.

The Use Fuel Tax Law requires that the flat rate fuel tax be an annual tax.

This bill would provide that, when an owner or operator elects to pay the annual flat rate fuel tax on more than one vehicle, the owner or operator may request that the State Board of Equalization prorate the tax due on a vehicle added during the annual period, so that all vehicles have the same annual period.

Under the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Energy Resources Surcharge Law, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill, Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, the Fee Collection Procedures Law, and the Diesel Fuel Tax Law, the State Board of Equalization administers various provisions respecting the payment of interest on refunds.

This bill would make changes in those provisions concerning the dates and time periods that affect the calculation of interest due on refunds.

This bill would incorporate additional changes in Section 7102 of the Revenue and Taxation Code, proposed by AB 1269, to be operative only if AB 1269 and this bill are both chaptered and become effective on or before January 1, 1998, and this bill is chaptered last.

This bill would incorporate additional changes in Section 2104 of the Streets and Highways Code, proposed by SB 506, to be operative only if SB 506 and this bill are both chaptered and become effective January 1, 1998, and this bill is chaptered last.

This bill would incorporate additional changes in Section 2107 of the Streets and Highways Code, proposed by AB 1226, to be operative only if AB 1226 and this bill are both chaptered and become effective January 1, 1998, and this bill is chaptered last.

This bill would declare that, due to the unique financial concerns within the County of Napa which a specified provision of the bill is intended to remedy, a general statute within the meaning of Section 16 of Article IV of the California Constitution is not applicable and a special statute is necessary.

The people of the State of California do enact as follows:

SECTION 1. Section 15619 of the Government Code is amended to read:

15619. Any member or ex-member of the State Board of Equalization, or any agent employed by it, or the Controller, or ex-Controller, or any person employed by him or her, or any person who has at any time obtained such knowledge from any of the foregoing officers or persons shall not divulge or make known in any manner not provided by law, any of the following items of information concerning the business affairs of companies reporting to the board:



(a) Any information concerning the business affairs of any company that is gained during an examination of its books and accounts or in any other manner, and is not required by law to be reported to the State Board of Equalization.

(b) Any information, other than the assessment and the amount of taxes levied, obtained by the State Board of Equalization in accordance with law from any company other than one concerning which that information is required by law to be made public.

(c) Any particular item of information relating to the disposition of its earnings contained in the report of a quasi-public corporation that the corporation, by written communication specifying the items and presented at the time when it files its report, requests shall be treated as confidential.

Nothing in this section shall be construed as preventing examination of these records and reports by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine these records.

Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

The Governor may authorize examination of these reports by other state officers. In that event the information obtained by these persons shall not be made public. The Governor, however, may direct that any of the information referred to in this section shall be made public.

Any violation of this section is a misdemeanor and punishable by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment not to exceed six months, or both, at the discretion of the court.

SEC. 2. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

“Retailer engaged in business in this state” as used in this section and Section 6202 means and includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(b) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(c) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(d) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll-free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this state.

(e) (1) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(2) This subdivision shall become operative upon the enactment of any congressional act that authorizes states to compel the collection of state sales and use taxes by out-of-state retailers.

(f) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section.

(g) Notwithstanding Section 7262, a retailer specified in subdivision (d), (e), or (f) above, and not specified in subdivision (a), (b), or (c) above, is a “retailer engaged in business in this state” for the purposes of this part and Part 1.5 (commencing with Section 7200) only.

(h) (1) For purposes of this section, “engaged in business in this state” does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists



substantially of on-line communications services other than the displaying and taking of orders for products.

(2) This subdivision shall become inoperative upon the earlier of the following dates:

(A) The operative date of provisions of a congressional act that authorize states to compel the collection of state sales and use taxes by out-of-state retailers.

(B) The date five years from the effective date of the act adding this subdivision.

SEC. 3. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, and pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(2) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be

transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(5) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(8) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be transferred to the Interim Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(9) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(10) An amount equal to all revenues, less refunds, derived under this part at a $4\frac{3}{4}$ -percent rate for the period between January 1, 1994, and July 1, 1994, from the increase in sales and use tax revenue attributable to the increase in the rate of the federal motor vehicle fuel tax between January 1, 1993, and the rate in effect on January 1, 1994, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and an amount equal to that amount, but not exceeding seven million five hundred thousand dollars (\$7,500,000) shall be transferred from the Retail Sales Tax Fund to the Small Business Expansion Fund created by Article 5 (commencing with Section 14030) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be made quarterly.

(d) Notwithstanding the designation of the Transportation Planning and Development Account as a trust fund pursuant to subdivision (a), the Controller may use the Transportation Planning and Development Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

SEC. 3.5. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(2) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State

Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(5) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(8) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be transferred to the Interim Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(9) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(10) An amount equal to all revenues, less refunds, derived under this part at a $4\frac{3}{4}$ -percent rate for the period between January 1, 1994, and July 1, 1994, from the increase in sales and use tax revenue attributable to the increase in the rate of the federal motor vehicle fuel tax between January 1, 1993, and the rate in effect on January 1, 1994, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and an amount equal to

that amount, but not exceeding seven million five hundred thousand dollars (\$7,500,000) shall be transferred from the Retail Sales Tax Fund to the Small Business Expansion Fund created by Article 5 (commencing with Section 14030) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be made quarterly.

(d) Notwithstanding the designation of the Transportation Planning and Development Account as a trust fund pursuant to subdivision (a), the Controller may use the Transportation Planning and Development Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

SEC. 4. Section 7204.5 is added to the Revenue and Taxation Code, to read:

7204.5. (a) For purposes of this section:

(1) "City" means any city located within the County of Napa.

(2) "County" means the County of Napa.

(3) "Quarterly taxes" means the total amount of sales and use taxes transmitted by the board to a city or the county for a calendar quarter.

(4) "Refund" means the amount of sales and use taxes deducted by the board from a city's or the county's quarterly taxes in order to pay the city's or county's share of a sales and use tax refund due as a result of overpayments of sales or use tax on the sale or purchase of oak barrels purchased for the purpose of physically incorporating oak into wine to be sold.

(5) "Offset portion" means that portion of the refund which exceeds fifty thousand dollars (\$50,000) in a calendar quarter.

(6) For purposes of calculating the "offset portion" the total refunds issued or to be issued shall be aggregated each quarterly period and shall be offset by an amount which exceeds fifty thousand dollars (\$50,000) for that quarterly period.

(b) (1) Upon notification by the board that a city or the county is subject to an offset portion, the city or county may, within 30 days after the date of that notification, request the board to deduct a pro

rata share of the offset portion from that city's or county's future transmittals of sales and use taxes.

(2) Except as provided in subdivision (c), if the board has deducted a refund from the city's or county's quarterly taxes which includes an offset portion, then the following provisions apply:

(A) For the 1997 calendar year, within nine months after the board deducted an offset portion, the city or county may request the board to transmit the offset portion to that city or county. After calendar year 1997, the city or county may make that request within three months after the board deducted the offset portion.

(B) As promptly as feasible after the board receives the city's or county's request, the board shall transmit to that city or county the offset portion as part of the board's periodic transmittal of sales and use taxes.

(3) The board shall thereafter deduct a pro rata share of the offset portion from future transmittals of sales and use taxes to the city or county over a period not to exceed 12 quarters until the entire amount of the offset portion has been deducted.

(c) The board shall not transmit the offset portion of the refund to the city or county if that transmittal would reduce or delay either the board's payment of the refund to the taxpayer or the board's periodic transmittals of sales and use taxes to any other city, county, city and county, or redevelopment agency in this state.

SEC. 4.5. Section 8255 of the Revenue and Taxation Code is amended to read:

8255. (a) Upon request from the officials to whom is entrusted the enforcement of the motor fuel tax law of another government the board or the Controller may furnish to such officials such information in the possession of the board or the Controller which is deemed essential to the enforcement of the motor fuel tax laws.

Any information so furnished shall not be used for any purpose other than that for which it was furnished.

(b) The board may furnish to any state or federal agency investigating violations of or enforcing any state or federal law related to motor fuels any motor fuel information in the possession of the board that is deemed necessary for the enforcement of those laws.

SEC. 5. Section 8651.7 of the Revenue and Taxation Code is amended to read:

8651.7. (a) The owner or operator, except an interstate user, of a vehicle propelled by a system using liquefied petroleum gas, liquid natural gas, or compressed natural gas may pay the fuel tax for the use of those fuels by paying an annual flat rate fuel tax according to the following schedule:

Unladen weight	Fee
All passenger cars and other vehicles 4,000 lbs. or less	\$ 36
More than 4,000 lbs. but less than 8,001 lbs.	72
More than 8,000 lbs. but less than 12,001 lbs.	120
12,001 lbs. or more	168

(b) The annual flat rate fuel tax described in subdivision (a) shall be an annual tax. The annual period shall be that period from the end of the month in which the tax was paid to the end of the month prior in the following calendar year. When an owner or operator elects to pay the annual flat rate fuel tax on more than one vehicle, the owner or operator may request that the board prorate the tax due on a vehicle added during the annual period, so that all vehicles have the same annual period. In the year a vehicle is added, the annual flat rate fuel tax for that vehicle shall be calculated by dividing the fee set forth in subdivision (a) by 12 and multiplying the resulting amount by the number of months remaining before the beginning of the next annual period.

(c) The board shall adopt an identification procedure for vehicles with respect to which the annual flat rate tax described in subdivision (a) of this section has been paid.

SEC. 6. Section 9255 of the Revenue and Taxation Code is amended to read:

9255. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any user visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except to another government, state agency or federal agency as specified in Section 9255.1. Information respecting the tax due from a user may be furnished, however, to any person owning or having an interest in a motor vehicle subject to the lien of the tax. The Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and

amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000), by imprisonment not exceeding one year, or by both that fine and imprisonment, in the discretion of the court.

SEC. 7. Section 9255.1 is added to the Revenue and Taxation Code, to read:

9255.1. (a) Upon request from the officials to whom is entrusted the enforcement of the motor fuel tax laws of another government, the board may furnish to those officials any information in the possession of the board that is deemed essential to the enforcement of the motor fuel tax laws. Any information so furnished shall not be used for any purpose other than that for which it was furnished.

(b) The board may furnish to any state or federal agency investigating violations of or enforcing any state or federal law related to motor fuels any motor fuel information in the possession of the board that is deemed necessary for the enforcement of those laws.

SEC. 8. Section 30179 of the Revenue and Taxation Code is amended to read:

30179. Interest shall be computed, allowed, and paid upon any overpayment for the purchase of stamps or meter register settings at the modified adjusted rate per month established pursuant to Section 6591.5, from the 26th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 9. Section 30366 of the Revenue and Taxation Code is amended to read:

30366. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the 26th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 10. Section 30455 of the Revenue and Taxation Code is amended to read:

30455. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any report, or to permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person.

Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

Nothing in this section shall prevent the board from exchanging with officials of other states information concerning interstate shipments of cigarettes or tobacco products.

Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000), by imprisonment not exceeding one year, or by both, in the discretion of the court.

SEC. 11. Section 32405 of the Revenue and Taxation Code is amended to read:

32405. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the 16th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed



or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 12. Section 40116 of the Revenue and Taxation Code is amended to read:

40116. Interest at the modified adjusted rate per month established pursuant to Section 6591.5, shall be paid upon any overpayment of any amount of surcharge from the first day of the calendar month following the month during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

SEC. 13. Section 43455 of the Revenue and Taxation Code is amended to read:

43455. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, “monthly period” means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the monthly period following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 14. Section 45655 of the Revenue and Taxation Code is amended to read:

45655. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the

monthly period following the period during which the overpayment was made. For purposes of this section, “monthly period” means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the monthly period following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

SEC. 15. Section 46506 of the Revenue and Taxation Code is amended to read:

46506. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the 26th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

SEC. 16. Section 46751 of the Revenue and Taxation Code is amended to read:

46751. (a) The board shall provide any and all information obtained under this part to the Department of Fish and Game.

(b) The Department of Fish and Game and the board may utilize any information obtained pursuant to this part to develop data on oil spill prevention, abatement, and removal within the state. Notwithstanding any other provision of this section, the Department of Fish and Game may make oil spill prevention, abatement, and removal public.

(c) It shall be unlawful for the board, or any person having an administrative duty under Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code or Division 7.8 (commencing with Section 8750) of the Public Resources Code to make known, in any manner whatever, the business affairs,

operations, or any other information pertaining to a fee payer which was submitted to the board in a report or return required by this part, or to permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by subdivision (a), subdivision (d), and this subdivision. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(d) The board may furnish to any state or federal agency investigating violations of or enforcing any state or federal law related to crude oil and petroleum products any crude oil and petroleum products information in the possession of the board that is deemed necessary for the enforcement of those laws.

(e) Notwithstanding subdivision (c), the successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information regarding the determination of any unpaid fee or the amount of fees, interest, or penalties required to be collected or assessed.

(f) Nothing in this section shall be construed as limiting or increasing the public's access to information on any aspect of oil spill prevention, abatement, and removal collected pursuant to other state or local laws, regulations, or ordinances.

SEC. 17. Section 50142.1 of the Revenue and Taxation Code is amended to read:

50142.1. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the 26th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

SEC. 18. Section 50161 of the Revenue and Taxation Code is amended to read:

50161. Except as provided in subdivisions (b) and (c) of Section 50159 and Section 50162, this chapter does not limit or increase public

access to information on any aspect of petroleum contained in underground storage tanks made available pursuant to any other state or local law, regulation, or ordinance.

SEC. 19. Section 50162 is added to the Revenue and Taxation Code, to read:

50162. (a) Upon request from the officials to whom is entrusted the enforcement of the motor fuel tax laws of another government, the board may furnish to those officials any information in the possession of the board that is deemed essential to the enforcement of the motor fuel tax laws. Any information so furnished shall not be used for any purpose other than that for which it was furnished.

(b) The board may furnish to any state or federal agency investigating violations of or enforcing any state or federal law related to motor fuels any motor fuel information in the possession of the board that is deemed necessary for the enforcement of those laws.

SEC. 20. Section 55225 of the Revenue and Taxation Code is amended to read:

55225. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, “monthly period” means the period commencing on the day after the due date of the payment and continuing through the same date in the immediately following month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the monthly period following the date upon which the claimant, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as to that to which interest is computed on the fee or amount against which the credit is applied.

SEC. 21. Section 60104 of the Revenue and Taxation Code is repealed:

SEC. 22. Section 60105 is added to the Revenue and Taxation Code, to read:

60105. (a) A penalty applies to any person who does any of the following:

(1) Sells or holds for sale dyed diesel fuel for any use that the person knows or has reason to know is a taxable use of the diesel fuel.



(2) Holds for use or uses dyed diesel fuel for a use other than a nontaxable use and that person knew, or had reason to know, that the diesel fuel was so dyed.

(3) Knowingly alters, or attempts to alter, the strength or composition of any dye or marker in any dyed diesel fuel.

(4) Fails to provide or post the required notice with respect to any dyed diesel fuel. The failure to provide or post the required notice creates a presumption that the person so failing knows the diesel fuel will be used for a taxable use.

(b) The amount of the penalty for each violation specified in subdivision (a) is ten dollars (\$10) for every gallon of diesel fuel involved or one thousand dollars (\$1,000), whichever is greater. The penalty shall be increased for subsequent violations by multiplying the penalty amount by the number of prior violations.

(c) If a penalty is imposed under this section on any business entity, each officer, employee, or agent of the entity, who participated in any act giving rise to the penalty shall be jointly and severally liable with the entity for the penalty.

SEC. 23. Section 60120 of the Revenue and Taxation Code is amended to read:

60120. Every person operating a qualified motor vehicle within and without this state or the United States shall apply to the board for a license on forms prescribed by the board. It is unlawful for any person to be an interstate user without first securing a license.

SEC. 24. Section 60121 of the Revenue and Taxation Code is amended to read:

60121. Before granting a license to an interstate user, the board may require the person to file with the board security pursuant to Section 60401. The license issued to any interstate user is not transferable and is valid until canceled or revoked.

SEC. 25. Section 60361 of the Revenue and Taxation Code is amended to read:

60361. (a) The board shall forthwith ascertain as best it may the amount of the diesel fuel removed, entered, sold, delivered, or used and shall determine immediately the tax on that amount, adding to the tax a penalty of 25 percent of the amount of tax or five hundred dollars (\$500), whichever is greater, and shall give the unlicensed person notice of this determination as prescribed by Section 60340. However, where the board determines that the failure to secure a license was due to reasonable cause, the penalty may be waived. Sections 60331 and 60332 shall be applicable with respect to the finality of the determination and the right of the unlicensed person to petition for a redetermination.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases the claim for relief.

(b) In any case where the board does not determine an amount of tax due, the unlicensed person shall be subject to a penalty of one hundred dollars (\$100), which penalty shall be immediately due and payable. Each subsequent violation shall increase the penalty amount by one hundred dollars (\$100), up to a maximum penalty of five hundred dollars (\$500). The board shall serve the person with a notice of penalty assessment in the manner prescribed by Section 60340 for service of notice of a deficiency determination. However, if the board finds that the failure of the person to secure a license was due to reasonable cause, the board may waive the penalty. A person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the request for relief is based.

SEC. 26. Section 60524 of the Revenue and Taxation Code is amended to read:

60524. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5 from the first day of the calendar month following the period during which the overpayment is made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 27. Section 60608 of the Revenue and Taxation Code is amended to read:

60608. (a) Upon request from the officials to whom is entrusted the enforcement of the motor fuel tax laws of another government, the board may furnish to those officials the information in the possession of the board that is deemed essential to the enforcement of the motor fuel tax laws.

Any information so furnished shall not be used for any purpose other than that for which it was furnished.

(b) The board may furnish to any state or federal agency investigating violations of or enforcing any state or federal law related to motor fuels any motor fuel information in the possession of the board that is deemed necessary for the enforcement of those laws.

SEC. 28. Section 60609 of the Revenue and Taxation Code is amended to read:



60609. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except to another government, state agency, or federal agency as specified in Section 60608. Information respecting the tax due from a person may be furnished, however, to any person owning or having an interest in a qualified motor vehicle or property subject to the lien of the tax. The Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

SEC. 29. Section 60709 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 2104 of the Streets and Highways Code is amended to read:

2104. A sum equal to the net revenue derived from a per gallon tax of 2.035 cents (\$0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2), 1.80 cents (\$0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 1.80 cents (\$0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars (\$1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or five million five hundred thousand dollars (\$5,500,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars (\$500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars (\$60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

SEC. 30.5. Section 2104 of the Streets and Highways Code is amended to read:

2104. A sum equal to the net revenue derived from a per gallon tax of 2.035 cents (\$0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2), 1.80 cents (\$0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 1.80 cents (\$0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars (\$1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal or snow grooming, or both, costs filed pursuant to subdivision (d) of Section 2152, or five million five hundred thousand dollars (\$5,500,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal or snow grooming, or both, on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars (\$500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars (\$60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

SEC. 31. Section 2105 of the Streets and Highways Code is amended to read:

2105. In addition to the apportionments prescribed by Sections 2104, 2106, and 2107, from the revenues derived from a per gallon tax imposed pursuant to Section 7351 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Section 8651 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Sections 60050 and 60115 of the Revenue and Taxation Code, the following apportionments shall be made:

(a) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 7351 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 8651 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned among the counties, including a city and county.

The amount of apportionment to each county, including a city and county, during a fiscal year shall be calculated as follows:

(1) One million dollars (\$1,000,000) for apportionment to all counties, including a city and county, in proportion to each county's receipts during the prior fiscal year under Sections 2104 and 2106.

(2) One million dollars (\$1,000,000) for apportionment to all counties, including a city and county, as follows:

(A) Seventy-five percent in the proportion that the number of fee-paid and exempt vehicles which are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent in the proportion that the number of miles of maintained county roads in the county bears to the miles of maintained county roads in the state.

(3) For each county, determine its factor which is the higher amount calculated pursuant to paragraph (1) or (2) divided by the sum of the higher amounts for all of the counties.

(4) The amount to be apportioned to each county is equal to its factor multiplied by the amount available for apportionment.

(b) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 7351 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 8651 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

SEC. 32. Section 2107 of the Streets and Highways Code is amended to read:

2107. A sum equal to the net revenues derived from a per gallon tax of 1.315 cents (\$0.01315) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2), 2.59 cents (\$0.0259) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 1.80 cents (\$0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned monthly to the cities and cities and counties of this state from the Highway Users Tax Account in the Transportation Tax Fund as provided in this section.

From that sum, the Controller shall allocate annually to each city which has filed a report containing the information prescribed by subdivision (c) of Section 2152, and which had expenditures in excess of five thousand dollars (\$5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars (\$5,000) during that fiscal year.

The balance of that sum from the Highway Users Tax Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

For the purpose of this section, the population in each city is that determined in the manner specified in Sections 11005 and 11005.3 of the Revenue and Taxation Code.

SEC. 32.5. Section 2107 of the Streets and Highways Code is amended to read:

2107. A sum equal to the net revenues derived from a per gallon tax of 1.315 cents (\$0.01315) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2), 2.59 cents (\$0.0259) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 1.80 cents (\$0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned monthly to the cities and counties of this state from the Highway Users Tax Account in the Transportation Tax Fund as provided in this section.

From that sum, the Controller shall allocate annually to each city that has filed a report containing the information prescribed by subdivision (c) of Section 2152, and that had expenditures in excess of five thousand dollars (\$5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars (\$5,000) during that fiscal year.

The balance of that sum from the Highway Users Tax Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

For the purpose of this section, except as otherwise provided in this paragraph, the population in each city is the population determined for that city in the manner specified in Sections 11005 and 11005.3 of the Revenue and Taxation Code. Commencing with the ninth fiscal year of a city described in subdivision (a) of Section 11005.3 of the Revenue and Taxation Code, and the sixth fiscal year of a city described in subdivision (b) of that same section, the population in each city is the population determined for that city in the manner specified in Section 11005 of the Revenue and Taxation Code.

SEC. 33. The Legislature hereby finds and declares that the amendment to Section 7102 of the Revenue and Taxation Code made by this act is consistent with and furthers the purpose of Proposition 116, which was enacted at the June 5, 1990, statewide election.

SEC. 34. Section 3.5 of this bill incorporates amendments to Section 7102 of the Revenue and Taxation Code proposed by both this bill and AB 1269. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 7102 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1269, in which case Section 7102 of the Revenue and Taxation Code, as amended by AB 1269, shall remain operative only until the operative date of this bill, at which time

Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 35. Section 30.5 of this bill incorporates amendments to Section 2104 of the Streets and Highways Code proposed by both this bill and SB 506. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 2104 of the Streets and Highways Code, and (3) this bill is enacted after SB 506, in which case Section 30 of this bill shall not become operative.

SEC. 36. Section 32.5 of this bill incorporates amendments to Section 2107 of the Streets and Highways Code proposed by both this bill and AB 1226. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 2107 of the Streets and Highways Code, and (3) this bill is enacted after AB 1226, in which case Section 32 of this bill shall not become operative.

SEC. 37. The Legislature finds and declares that a general statute, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable to the unique financial concerns within the County of Napa that Section 4 of this act is intended to remedy, and that, therefore, this special statute is necessary.

